

1 Paul L. Yde (Dist. of Columbia Bar No. 449751)
2 Andrea Agathoklis (Dist. of Columbia Bar No. 476626)
3 FRESHFIELDS BRUCKHAUS DERINGER US LLP
4 701 Pennsylvania Ave., NW, Suite 600
5 Washington, DC 20004
6 Telephone: (202) 777-4500
7 Facsimile: (202) 777-4555
8 Email: paul.yde@freshfields.com
9 andrea.agathoklis@freshfields.com

10 Admitted *Pro hac vice*

11 Patrick D. Robbins (State Bar No. 152288)
12 Mikael A. Abye (State Bar No. 233458)
13 SHEARMAN & STERLING LLP
14 525 Market Street, Suite 1500
15 San Francisco, CA 94105-2723
16 Telephone: (415) 616-1100
17 Facsimile: (415) 616-1199
18 Email: probbins@shearman.com
19 mabye@shearman.com

20 Attorneys for Defendant Continental Airlines, Inc.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE TRANSPACIFIC PASSENGER AIR
TRANSPORTATION ANTITRUST LITIGATION

Master File No. C 07-05634 CRB

MDL No. 1913

Assigned to Hon. Charles R. Breyer

DEFENDANT CONTINENTAL
AIRLINES, INC'S OPPOSITION TO
MOTION BY CERTAIN DEFENDANTS
TO COORDINATE ARGUMENT AND
CONSIDERATION OF ALL
DEFENDANTS' MOTIONS TO DISMISS

Date: November 13, 2009
Time: 10:00 a.m.
Judge: Honorable Charles R. Breyer
Courtroom: No. 8, 19th Floor

This Document Relates to: ALL ACTIONS

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1 **I. INTRODUCTION**

2 Defendant Continental Airlines, Inc. (“Continental”) requests the Court deny the Motion
 3 By Certain Defendants to Coordinate Argument and Consideration of All Defendants’ Motions to
 4 Dismiss (“Motion to Coordinate Argument”) in the above captioned case. The non-Continental
 5 Defendants who signed the Motion to Coordinate Argument have not presented the Court with a
 6 sufficient explanation as to why delay at this late hour is warranted. Continental requests
 7 expedited treatment of this matter, as counsel for Continental are scheduled to depart the
 8 Washington, DC area for travel to San Francisco at 11:55am PST on Wednesday, November 11,
 9 2009.

10 **II. ARGUMENT**

11 **A. Continental’s Motion to Dismiss Concerns Only Continental**

12 Continental’s Motion to Dismiss addresses matters alleged in Plaintiffs’ Consolidated
 13 Class Action Complaint (“Complaint”) as to Continental exclusively. Therefore, the only
 14 necessary participants at the forthcoming oral argument are Continental and the Plaintiffs.¹
 15 Continental’s written submissions before the Court to date and oral presentation to the Court
 16 have focused and will continue to focus only upon allegations made as to Continental. While the
 17 non-Continental Defendants state that they intend to raise issues in their forthcoming submissions
 18 that are broadly similar to those which Continental already has raised in its filings (e.g., the
 19 failure of Plaintiffs to satisfy the pleading requirements as set forth in *Bell Atlantic Corp. v.*
 20 *Twombly*, 550 U.S. 544 (2007)), this possibility does not negate the fact that the oral argument
 21 will be focused squarely on allegations Plaintiffs have directed against Continental – not to any
 22 other non-Continental Defendant.

23 **B. Delay Will Prejudice Continental**

24 Continental has expended significant resources preparing for Friday’s hearing.
 25 Continental believes its inclusion as a Defendant in the Complaint is inappropriate and

26 **¹** Continental notes that Plaintiffs appear to have rejected the non-Continental Defendants’
 27 efforts to delay argument. *See* Declaration of William R. Sherman In Support of Motion by
 28 Certain Defendants to Coordinate Argument and Consideration of All Defendants’ Motion to
 Dismiss, at 2:14-18.

Continental seeks immediately to be vindicated and dismissed from the litigation. Continental also notes it has followed the Local Rules and procedures of the Court and that the hearing date was first noticed in Continental's initial Motion to Dismiss, on October 2, 2009, more than one month ago.

C. The Non-Continental Defendants Need Not Expend Resources to Travel to San Francisco

The non-Continental Defendants suggest that it will be inefficient “to require all defendants’ counsel to travel to San Francisco for a hearing on a single defendant’s motion to dismiss.” Motion to Coordinate Argument at 3. Continental submits that such travel is not necessary for this Continental-specific motion. Continental notes that counsel for several of the non-Continental Defendants who signed the Motion to Coordinate Argument are based in the San Francisco area, and that transcripts are readily available to all parties soon after the hearing.

III. CONCLUSION

Based on the foregoing, Continental respectfully requests the Court deny the Motion By Certain Defendants to Coordinate Argument and Consideration of All Defendants' Motions to Dismiss. As indicated above, Continental requests expedited treatment of this matter as counsel for Continental are scheduled to depart the Washington, DC-area for travel to San Francisco at 11:55am PST on Wednesday, November 11, 2009.

Dated: November 10, 2009

Respectfully submitted,

FRESHFIELDS BRUCKHAUS DERINGER US LLP
Paul L. Yde
Andrea Agathoklis

SHEARMAN & STERLING LLP
Patrick D. Robbins
Mikael A. Abye

By: /s/
Paul L. Yde

Attorneys for Defendant Continental Airlines, Inc.